

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PETER L. DUFFY,)
Plaintiff)
v.)
DEPARTMENT OF THE NAVY) Civil Action No. 04-10547-WGY/LPC
Defendant)

)

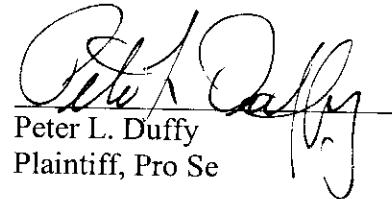
**REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT**

The Plaintiff concurs with Defendant's assertion that the Freedom Of Information Act's (FOIA) exemptions from disclosure of government information are generally "discretionary" in nature. The Defendant's discretion, their ability to responsibly apply the FOIA statutory requirements, is exactly what is at issue here.

The record of this case shows that a basis for injunctive relief does exist. This was not simply, as the Defendant suggests, a case of applying exemptions and then releasing the documents after reconsideration. This was a case where on three different occasions, over a period of two years and eight months, the Defendant formally reviewed the withheld documents and chose to exercise a legal authority they clearly did not have by deciding each time that FOIA exemptions (b)(5) and (b)(6) applied to blank records, records with standard boilerplate language, records that had nothing to do with personal or medical files, and records that would be clearly releasable since they would be discoverable in a civil action. This is a clear abuse of the discretionary power that Congress entrusted the Defendant with.

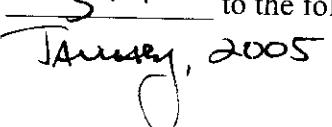
Further, the Defendant incorrectly assumes that the Plaintiff seeks pro se attorney's fees.

The Plaintiff seeks reimbursement of all legal costs (i.e. \$150 filing fee, postage, copying, and other expenses legally entitled to).


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Plaintiff, Pro Se

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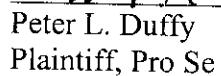
CERTIFICATE OF SERVICE

I, Peter L. Duffy certify that copies of the following document, *REPLY TO DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT*, Civil Action No. 04-10547-WGY, were sent via U.S. Postal Service, on 5th  to the following addresses:

US Attorney's Office
Suite 9200 (9th Floor)
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